

2. PRIOR WRITTEN NOTICE 34 CFR §300.503 and NC 1504-1.4

DEFINITION

Native language - When used with an individual who has limited English proficiency, native language means:

- The language normally used by that person, or, in the case of a child, the language normally used by the child's parents; and
- In all direct contact with a child (including evaluation), the language normally used by you in the home or learning environment.

For a person with deafness or blindness or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

NOTICE → Form DEC5

Your LEA must give you written notice (provide you certain information in writing) whenever it:

- Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
- Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.
- Ceases services based on your written revocation of consent.

Note: Information about providing prior notice due to a disciplinary change in placement is located in Section 13 **Disciplinary Procedures**

In Other Words...

→ If you revoke consent, the LEA must provide written notice to you before stopping the special education services.

CONTENT OF NOTICE

The written notice must:

- Describe the action that your LEA proposes or refuses to take;
- Explain why your LEA is proposing or refusing to take the action;
- Describe each evaluation procedure, assessment, record, or report your LEA used in deciding to propose or refuse the action;
- Include a statement that you have protections under the Procedural Safeguards provisions in Part B of the IDEA (Part B means services for children ages 3 through 21);
- Tell how you can obtain a description of the Procedural Safeguards if the action that your LEA is proposing or refusing is not an initial referral for evaluation;
- Include resources for you to contact for help in understanding IDEA;
- Describe any other options that your child's Individualized Education Program (IEP) Team considered and the reasons why those options were rejected; and
- Provide a description of the reasons why your LEA proposed or refused the action.

→ The prior written notice must clearly explain everything the LEA decided to do or refused to do, and why those decisions were made.

The prior written notice must clearly explain the other things the LEA considered, but decided against, and why it decided against them.

The prior written notice must clearly explain all the information used in making the decisions.

The prior written notice must have a statement that tells you about your protections in this document.

NOTICE IN UNDERSTANDABLE LANGUAGE

The notice must be:

- Written in language understandable to the general public; and
- Provided in your native language or other mode of communication you use unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your LEA must take steps to ensure that:

- The notice is translated for you orally or by other means in your native language or other mode of communication;
- You understand the content of the notice; and
- There is written evidence that a and b have been met.

→ If your native language is not one that can be written, the LEA will translate the notice for you orally.

ELECTRONIC MAIL

If your LEA offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

- Prior written notice;
- Procedural Safeguards notice (this document); and
- Notices related to a due process petition.

→ You can ask the LEA to send these three notices by e-mail if the LEA offers you a choice about how you receive the notices.